

MINUTES  
FOR THE MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: August 16, 2006  
TIME: 9:00 am  
PLACE: DLNR Board Room  
Kalanimoku Bldg.

Chairperson Peter T. Young called the meeting of the Commission on Water Resource Management to order at 9:06 a.m.

The following were in attendance and/or excused:

**MEMBERS:** Mr. Peter Young, Ms. Stephanie Whalen, Mr. James Frazier,  
Mr. Neal Fujiwara, Dr. Lawrence Miike, and Dr. Chiyome Fukino

**STAFF:** Dean Nakano, Roy Hardy, Edwin Sakoda, Lenore Nakama, Ryan  
Imata, Dean Uyeno, Neal Fujii, Josh Hekekie, Charley Ice

**EXCUSED:** Ms. Meredith Ching

**COUNSEL:** Julie China, Esq.

**OTHERS:** Kapua Sproat, George Reid, Lindsey Kasperonokz, Yvonne Izu,  
Karen Piltz

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties. The items were not taken in the order posted on the agenda.

**A. APPROVAL OF MINUTES**

July 12, 2006

MOTION: (FRAZIER/WHALEN)  
To approve the minutes.  
UNANIMOUSLY APPROVED.

**B. ANNOUNCEMENTS**

The Hearing Officer's proposed Decision and Order for the Iao Ground Water Basal Sources was issued on August 11, 2006. The date for submission for written exceptions is September 22, 2006.

**C. GROUND WATER REGULATION**

- 1. Hawaii Reserves, Inc., APPLICATION FOR WATER USE PERMITS, Prawn Farm and Laie Maloo Wells (Well Nos. 3856-07 & 3755-04), TMK 5-5-005:023 (3856-07) and 5-6-006:011 (3755-04), WUP Nos. 746 & 747, New (Agricultural) Use for 0.147 mgd (3856-07) and 0.025 mgd (3755-04), Koolauloa Ground Water Management Area, Oahu**

PRESENTATION OF SUBMITTAL: Ryan Imata

RECOMMENDATIONS:

Because the applications fulfill the requirements under Section 174C-49(a) of the State Water Code, staff recommends that the Commission approve the issuance of:

- A. Water Use Permit No. 746 to Hawaii Reserves, Inc. for the reasonable and beneficial use of 0.171 million gallons per day of potable water for agriculture irrigation use from the Prawn Farm Well (Well No. 3856-07), subject to the revocation of existing Water Use Permit No. 387; and
- B. Water Use Permit No. 747 to Hawaii Reserves, Inc. for the reasonable and beneficial use of 0.039 million gallons per day of potable water for agricultural and pasture irrigation use from the Laie Maloo Well (Well No. 3755-04);

Both subject to the standard water use permit conditions listed in Attachment B and the following special conditions:

1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.
2. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.

DISCUSSION:

Mr. George Reid, applicant, Hawaii Reserves, Inc. (HRI), agreed with staff recommendations.

In answer to Commissioner Whalen's question about the requested pasture irrigation rate being lower, Mr. Reid replied that the amount is calculated and estimated based on what HRI has been using in the past. This request is basically for drinking water for livestock.

MOTION: (MIIKE/FRAZIER)

To approve the submittal.

UNANIMOUSLY APPROVED.

**E. STREAM PROTECTION AND MANAGEMENT**

**1. Commission Delegation of Authority, Allowing the Hearings Officer to Extend the Mediation Period for Complaint C04-31 Regarding Waste of Surface Water, Wailuku, Maui**

PRESENTATION OF SUBMITTAL: Ed Sakoda

RECOMMENDATION:

That the Commission on Water Resource Management (Commission) authorize the hearings officer to extend the mediation period beyond September 8, 2006, if deemed appropriate.

DISCUSSION:

Commissioner Miike stated that the mediator will report to the hearings officer, and if the mediation is not successful, the hearings officer will take the matter to contested case hearing. There will be an evidentiary hearing and then the hearings officer will prepare a proposed decision and order. Whatever decision is made, we will have to hold off any action until the second contested case is resolved regarding petitions and the permitting of the off-stream uses which will have to address the waste complaint.

Acting Deputy Director Nakano added that should the mediation period need to be extended, the hearings officer would issue a minute order and another date will be established at that time. A written report will be provided to the hearings officer from the mediator. Ample time has been budgeted for full consideration of any possible mediation.

Commissioner Miike added that if mediation doesn't resolve all the issues, they will at least have been able to discuss what they can and cannot agree on. In the contested case, these agreed upon issues would not need to be repeated.

Kapua Sproat, attorney for Earthjustice (EJ), representing Hui O Na Wai Eha and Maui Tomorrow, supports staff's recommendation to extend the period of time for the mediator. She noted for the record that it is absolutely critical that the mediation progress as soon as possible. She is hoping that the mediation will be productive. However, if the mediation process does not look promising, then EJ will request that the contested case hearing proceed.

Lindsey Kasperonokz of Paul Johnson Park & Niles, representing the Office of Hawaiian Affairs (OHA), supports staff's recommendation to extend time for mediation. Like EJ, OHA is willing to mediate in good faith and hopefully the mediation will be productive. She emphasized the need to move quickly and if not successful, OHA will also request that the contested case hearing proceed.

MOTION: (FUJIWARA/WHALEN)  
To approve the submittal.  
UNANIMOUSLY APPROVED.

**F. PLANNING**

**1. Request to Provide State Cost-Share Towards a Project Proposal To Update and Publish Climatological Rainfall Stations for Maui County**

PRESENTATION OF SUBMITTAL: Neal Fujii

RECOMMENDATION:

That the Commission authorizes the Chairperson to enter into a memorandum of agreement with the County of Maui, Department of Water Supply to update and publish climatological rainfall stations for the County of Maui.

DISCUSSION:

In answer to Commissioner Frazier's question on climatological rainfall stations on the island of Hawaii, Mr. Fujii stated that the County of Hawaii, Department of Water Supply will be fully funding their project without Commission cost-share.

Commissioner Fujiwara asked about rainfall stations on Kahoolawe and why it isn't included in this agreement.

Mr. Fujii stated that he will follow up with Dr. Chu to see if Kahoolawe can be included in this project and will return to the Commission with an answer.

Acting Deputy Director stated that staff will also check on the cost, if any, to supplement the effort by Dr. Chu to incorporate Kahoolawe as part of the rainfall stations update.

Commissioner Whalen moved to approve staff's recommendation with the condition that staff will look into including Kahoolawe as part of the rainfall stations update.

MOTION: (WHALEN/FRAZIER)  
To approve the submittal.  
UNANIMOUSLY APPROVED.

**G. NON-ACTION ITEMS**

**1. Stream Protection and Management (SPAM) Program Briefing**

Presented by: Ed Sakoda

Mr. Sakoda briefed the Commission on the difference between the Instream Flow Standard (IFS) and the Interim Instream Flow Standard (IIFS) process.

The Water Code provides that the Commission initiates the proceedings for establishment of IFS. Staff will inventory and get the best available information on the subject stream and watershed area. A Notice of Intent is required to be published in the area of the particular stream for which an IFS is being proposed. The Code states that staff shall seek agency review and comments and is required to hold a public hearing. The information from the public hearing will be compiled and a recommendation will be prepared and presented to the Commission.

The Code also provides for establishment and amendment of IIFS when information is less complete or we are still trying to obtain additional information. A petition can come from any interested party or the Commission can do it on its own motion. Agency review or public meetings are not required for IIFS.

The differences between interim (IIFS) and permanent (IFS) would be the Notice of Intent and the required public hearing. If anyone wants to amend either the IIFS or IFS, one would need to go through the specified process/steps. Designation of a surface water management area is an additional step that can be taken if necessary, after the setting of IIFS or IFS.

Acting Deputy Director Nakano added that the process to establish the IFS is lengthy. If there is a potential dispute in an area where the IFS is set, additional proceedings may be needed to designate a surface water management area. Subsequently, surface water use permits would be issued. Mr. Nakano also stated that staff is proposing a process that asks for more information than what the Code requires for the setting of IIFS, which is beneficial in seeking out best available information necessary for setting IIFS/IFS.

#### **H. NEXT COMMISSION MEETINGS (TENTATIVE)**

September 20, 2006

October 18, 2006

Respectfully submitted,

FAITH F. CHING  
Secretary

APPROVED AS SUBMITTED:

DEAN A. NAKANO  
Acting Deputy Director